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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**  
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12 Roy D. Newport, et al.

13 Plaintiffs,

14 v.

15 Burger King Corporation,

16 Defendant.

No. CV 10-04511 WHA

**ORDER ON PLAINTIFFS' REQUEST FOR  
DISCOVERY RELIEF (AS TO RFPs 11,  
13, 14, 15, and 17)**

**ORDER REFERRING ALL FURTHER  
DISCOVERY DISPUTES FOR  
MAGISTRATE JUDGE ASSIGNMENT**

17 Burger King Corporation,

18 Defendant/Counter-Claimant,

19 v.

20 Antelope Valley Restaurants, Inc., et al.

21 Counter-Defendants.  
22

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24 This matter having come before the Court on Plaintiffs' Request for Discovery  
25 Relief; Defendant Burger King Corporation ("BKC") having filed a Response to Plaintiffs'  
26 Request for Discovery Relief on May 25, 2011; the Court having heard argument by  
27 counsel for Plaintiffs and BKC on May 27, 2011 with respect to Requests for Production  
28 of Documents Nos. 11, 13, 14, 15, and 17 issued by Plaintiffs; and the Court having

1 reviewed the relevant papers, pleadings, and arguments on file:

2 **IT IS HEREBY ORDERED THAT:**

3 Defendant Burger King Corporation is ordered to produce documents in response  
4 to Requests for Production (“RFPD”) Nos. 11, 13, 14, 15, and 17 issued by Plaintiffs,  
5 modified as follows by the Court:

6 1. With respect to RFPD Nos. 11, 13, 14, 15, and 17, BKC is ordered to  
7 produce responsive documents dating from May 1997 to the present.

8 2. With respect to RFPD Nos. 11, 13, 14, and 17, BKC is ordered to produce  
9 responsive documents that relate to all of its franchises in the United States.

10 3. RFPD No. 13 is modified as follows: “All documents that provide or refer to  
11 BKC’s providing in-house technical assistance without charge to help franchisees attain  
12 ADA compliance, including but not limited to any communications from BKC advising the  
13 franchisees that it is willing to provide such assistance.”

14 4. RFPD No. 14 is modified as follows: “All documents that provide or refer to  
15 any training regarding disability access law compliance provided by BKC to the  
16 Franchisees or to BKC’s employees, including but not limited to construction managers,  
17 design managers, franchise business leaders, and vice presidents.”

18 5. RFPD No. 15 is modified as follows: “All survey instruments, scopes of  
19 work, facility inspection reports, and like documents that specifically refer to or identify  
20 ADA or disability access law compliance issues pursuant to inspections conducted by  
21 BKC at the California BKL restaurants, including but not limited to documents prepared  
22 by Kim Blackseth, Jones Lang LaSalle, Universal Designers & Consultants, Inc., John  
23 P.S. Salmen, and Rothenberg Sawasy Architects, Inc. from May 1997 to the present.”  
24 Documents produced in response to RFPD No. 15 will be produced subject to a  
25 protective order agreed to by the parties and entered by the Court.<sup>1</sup>

26 6. RFPD No. 17 is modified as follows: “All communications between BKC  
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28 <sup>1</sup> No protective order applies, however, until one is submitted to and approved by the Court, which has not yet been done.

1 and the franchisees at issue in this action that relate to disability access law compliance  
2 from May 1997 to the present.” Further, BKC is hereby barred from referring to any such  
3 communications with franchisees other than the franchisees at issue in this action by  
4 reason of BKC’s refusal to produce all such communications with all of its franchisees in  
5 the United States.

6 Defendant Burger King Corporation must produce all documents set forth herein  
7 no later than 21 days following May 27, 2011, which is June 17, 2011. However, if the  
8 scope of document search and production is significantly broad or burdensome to  
9 warrant additional time, BKC may apply to this Court for an extension of the compliance  
10 deadline. Such application must be supported by declarations showing good cause for  
11 additional time.

12 Further discovery disputes, including those identified in Plaintiffs’ Request for  
13 Discovery Relief and not addressed by the Court on May 27, 2011, are hereby referred  
14 to the Clerk for random assignment of a Magistrate Judge to be assigned to resolve  
15 discovery disputes in this action.

16 The parties must be mindful of the discovery cut-off and trial dates. The parties  
17 bear the burden of bringing all discovery disputes to the magistrate judge’s attention in a  
18 timely manner, such that the disputes can be settled and discovery can be completed  
19 before the discovery cut-off. The magistrate judge is requested to assist the Court in  
20 adhering to the case management schedule by issuing timely rulings on the parties’  
21 discovery disputes.

22 **IT IS SO ORDERED.**

23 DATED: June 6, 2011.

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26 WILLIAM ALSUP  
27 U.S. DISTRICT COURT JUDGE  
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1 APPROVED AS TO FORM:

2 DATED: June 3, 2011

HANSON BRIDGETT LLP

3  
4 By: /s/ Megan Oliver Thompson  
5 MEGAN OLIVER THOMPSON  
6 Attorneys for Plaintiffs  
Roy D. Newport, et al.

7 DATED: June 3, 2011

GLYNN & FINLEY LLP

8  
9 By: /s/ Adam Friedenberg  
10 ADAM FRIEDENBERG  
11 Attorneys for Defendant  
Burger King Corporation  
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